

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

HENRY R. TERRY,

Plaintiff,

-against-

OPINION & ORDER
CV-09-3173(SJF)(ARL)

WAYNE CARAVELLO and
MARK JURLANDO,

Defendants.

X

FEUERSTEIN, J.

On July 23, 2009, plaintiff Henry R. Terry (“plaintiff”) filed a petition against defendants Wayne Caravello and Mark Jurlando (collectively, “defendants”) pursuant to the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.*, seeking to vacate an arbitration award in favor of defendants issued by the American Arbitration Association on April 27, 2009. Thereafter, defendants moved, *inter alia*, to “remove” this proceeding to the Supreme Court of the State of New York, County of Nassau. On September 17, 2009, I referred defendants’ motion to Magistrate Judge A. Kathleen Tomlinson for a report and recommendation in accordance with 28 U.S.C. § 636(b). On November 16, 2009, Magistrate Judge Tomlinson issued a Report and Recommendation (“the Report”) recommending that defendants’ motion be denied. No objections have been filed to the Report. For the reasons stated herein, the Court accepts Magistrate Judge Tomlinson’s Report in its entirety.

I

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See, Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F.Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 Fed.Appx. 374 (2d Cir. 2005); Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

II

No party has filed any objections to Magistrate Judge Tomlinson's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts

Magistrate Judge Tomlinson's Report in its entirety. Defendants' motion to "remove" this action to state court is denied.

SO ORDERED.

SANDRA J. FEUERSTEIN
United States District Judge

Dated: January 13, 2010
Central Islip, New York